

EXHIBIT 10

Yu, James

From: Marzigliano, Tammy
Sent: Wednesday, February 20, 2008 4:46 PM
To: Yu, James
Subject: FW: Diaz v. Scores - Alternate proposal to save fees and costs

Tammy Marzigliano
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-----Original Message-----

From: CapobiancoN@gtlaw.com [mailto:CapobiancoN@gtlaw.com]
Sent: Tuesday, February 19, 2008 2:17 PM
To: Swartz, Justin
Cc: GOLDBERGJ@gtlaw.com; rburch@bruckburch.com; dmoulton@brucknerburch.com; Klein, Adam; Marzigliano, Tammy; Greene, Cara; TanenL@gtlaw.com
Subject: Re: Diaz v. Scores - Alternate proposal to save fees and costs

Justin,

We seem to have different views as to how this case should be litigated. Please let me be clear as to our positions:

1. We are not withdrawing our motion.
2. The 3 remaining Plaintiffs need to have their depositions taken before our final papers are due. If we don't have dates certain by end of day Thursday, we will write the court.
3. You have all the documents you need to defend the depositions.
4. There has been no waiver of objections to your document requests. The scope of our objections is clear from our interrogatory responses. We will provide responses to your document requests no later than Thursday..
5. Plaintiffs have had meaningful discovery on the joint employer issue. You've had two 30(b)(6) depositions and also the license agreements themselves -- and this is in addition to what's available to the general public about Scores Holding.

Neil Capobianco (sent from my BlackBerry Wireless Handheld)

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to mailto:postmaster@gtlaw.com.

From: Swartz, Justin <JMS@outtengolden.com>
To: Capobianco, Neil (OfCnsl-NY-EmpLaw)
Cc: Goldberg, Jerrold F. (Shld-NY-EmpLaw); Rex Burch <rburch@brucknerburch.com>;
dmoulton@brucknerburch.com <dmoulton@brucknerburch.com>; Klein, Adam
<ATK@outtengolden.com>; Marzigliano, Tammy <tm@outtengolden.com>; Greene, Cara
<CEG@outtengolden.com>
Sent: Sun Feb 17 15:18:40 2008
Subject: Diaz v. Scores - Alternate proposal to save fees and costs

Neil -

Thanks for your quick response to our letter. I have to respond by email because I am out of town.

We understand your positions but feel that we should all do what we can to keep fees and costs down in this case. (As you know, if Plaintiffs prevail, Defendants will be responsible for Plaintiffs fees and costs.)

To that end, here is an alternate proposal that we think will address your concerns and that will be more cost-effective than your pressing your motion now:

1. Defendants will withdraw their motion w/o prejudice to renewal after discovery;
2. Plaintiffs will amend their complaint by 2/21, the date we originally agreed on;
3. The parties will engage in discovery on the issue of which entities are proper defendants (it doesn't make sense to us that Defendants are pressing a summary judgment motion so early in the case, and before Plaintiffs have had a chance to take any meaningful discovery);

This proposal would (1) avoid the parties briefing summary judgment issues when it is likely that the court will allow Plaintiffs to take discovery on them and then require new briefing; (2) eliminate the possibility that the intervening Second Amended Complaint will confuse the Court (Defendants moved to dismiss parts of the first Amended Complaint); (3) give Defendants an opportunity to address Plaintiffs contention that the Class Action Fairness Act gives the Court original jurisdiction over Plaintiffs' state law claims, an argument that Defendants omitted from the motion currently on file; and (4) address Defendants' concern that the proper parties are named before notice issues to workers at the East Side club (there is no dispute that Plaintiffs named the correct party that employed the workers at the West Side club) because Plaintiffs will name the correct East Side entity in their Second Amended Complaint on 2/21.

As for the remaining Plaintiffs' depositions, we will try to find dates that work for everybody. We think that these dates should be after Defendants make a substantial, if not complete document production, so that we can adequately prepare our clients with the benefit of the documents we requested. (Defendants did not timely object to any of

Plaintiffs' document requests so we assume that documents are forthcoming). If you think that our position on the remaining Plaintiffs' depositions is unreasonable, let us know and we can discuss it further.

I hope this alternate proposal addresses all of your concerns. Please let me know your thoughts about it and, if you do not agree to it, the reasons.

Best regards,

Justin

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